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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/942,214	10/01/97	JOHNSON	K MNFRAME.005A
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LM02/0426

KNOBBE MARTENS OLSON & BEAR
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660-8016

EXAMINER

WRIGHT, N

ART UNIT	PAPER NUMBER
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2785

18

DATE MAILED:

04/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

- ① PTD - 326
- ② Office Action
- ③ PR - 1443

N.M. Wright
NORMAN M. WRIGHT
PRIMARY EXAMINER

Office Action Summary

Application No.

8/942,214

Applicant(s)

Johnson et al

Examiner

N. W. [initials]

Group Art Unit

2785

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3/15/00
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-2 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-2 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 14-15, 17
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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Drawings

1. Drawings have been submitted which are acceptable for examination purposes only.

Specification

2. The use of the trademark I2C has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. Accordingly, since applicant refuses to capitalize each letter of the trademark, the examiner is requiring that applicant include a proper trademark symbol following the use of said trademarks. See MPEP 608.01 (v).
3. As to the co-pending applications which have been incorporated by reference, due to the volume of applications, they are being considered to the extent that they are explained in the application. Additionally, applicant asserts that the applications in the related

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section are most relevant; therefore, 08/942,402, 08/942,448 and 08/942,222 are considered most relevant, and the remaining are considered to the extent that they are explained in the application.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 10-12, 14-18 and 20-21, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Barrett, U.S. Pat. No. 5,311,451, hereinafter '451.

As to claims 1-7, 10 and 20-21, Barrett '451 teaches the use of a reconfigurable controller and monitor comprising: a method of mapping resources to memory (abs., and col. 2, lines 35 et seq.), a micro controller network (fig. 1), a central computer (25), a information path way (23), sensors (19), buffering messages (col. 3, lines 20 et seq.), a client computer (col. 1, lines 63 et seq., col. 2, lines 10 et seq.), a variable speed fan (col. 6, lines 19 et seq.), a temperature sensor 19, a display (27), checking voltage (col. 13, lines 15 et seq), and executing commands(col. 1, lines 48 et seq., and col. 3, lines 23 et seq.). Stated another way '451 teaches sending a request for parameter

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information, obtaining status from micro-controllers and sensors, and processing the response to effective a desired environmental condition.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 20-21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Travallaei et al. U.S. Pat. No. 5,964,683 hereinafter '653, in view of Lakin U.S. Pat. No. 5,803,357, hereinafter '357.

As to claims 1-2 and 20-21, Travallaei '653 teaches a system and method of mapping environmental resources to memory comprising: a computer, a micro-controller, a network, executing commands, see figures 2-4 and 7. Not explicitly taught is the connection to a plurality of sensors.

Lakin '357 teaches the use of a plurality of sensors being controlled by a microprocessor (Fig. 5).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the network system of '653 to have a plurality of environmental sensors. Because, '357 teaches that the use of environmental control systems typically consist of such devices (col. 1). One of ordinary skill in the art would have had a desire to perform such a modification as a means of ensuring the availability, reliability, and operability of a computer system. The effects of the environmental conditions, such as heat and humidity, are known to cause computer systems and components to fail prematurely. One of ordinary skill would have thus sought to eliminate these deleterious effects by monitoring the conditions of environments.

6. Claims 8-9, 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett, U.S. Pat. No. 5,311,451, hereinafter '451.

As to claims 8, not explicitly taught by '451 is checking the state of the bus. Applicant admitted prior art teaches the use of checking the state of the bus (pg. 12, lines 11 et seq.) It would have been obvious to one of ordinary skill in the art at the time of the invention, to augment the invention of '451 with a means of monitoring the state of the bus, by utilizing the well known concepts of bus monitoring, as recited by applicant. One

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of ordinary skill in the art would have readily realized that the functions of monitoring the bus, to ensure proper operation and to avoid bus contention problems are necessary functions in a data processing system. Moreover, one of ordinary skill would have been motivated to perform this modification, because, such is the convention in the art as evidenced by the applicant's recited prior art.

As to claim 9, '451 does not explicitly teach detecting the presence of a canister. As understood from applicant's specification the controller are off-the-self items (pg. 13), which may be programmed to perform various functions including checking for units/enablenents. The Examiner takes official notice of the detecting for the presence of a canister. It would have been obvious to one of ordinary skill in the art at the time of the invention, to augment the invention of '451 by programming a micro-controller to check for the presence of a canister. It would have been obvious to one of ordinary skill to perform this modification because, micro-controllers frequently are utilized to detection or monitor the operations of computing elements in a system. One of ordinary skill would have readily realized that the monitoring and detection of canister or I/O adapters would

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change the configuration of the system and require a new system mapping to reflect the changes.

As to claim 11, '451 teaches using air temperature as a parameter for adjusting the environmental controls (col. 5, lines 50 et seq.); more specifically, adjusting the speed of a motor in an air flow system (col. 6, lines 19 et seq.).

As to claim 12, '451 teaches checking for a power supply (col. 13, lines 15 et seq.).

As to claims 14-18, '451 teaches sending a message to a log (Rams, 314, 520), notification of a fault (col. 18, lines 4 et seq.), enabling and disabling canisters (col 14, lines 14 et seq.), and a timer (col. 14, lines 12 et seq.).

As to claims 13 and 19, the examiner takes official notice of both the motives and reason for modifying the invention of '451, to accept a BIOS update in a flash memory, and being implemented on an I2C bus. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of '451 with an I2C bus and updated BIOS means because, such is the convention in the art. A skilled artisan would have readily realized that the invention of '451 may be augmented with a myriad of types of standard buses, as well as, a memory means for storing an updated BIOS. One of skill would

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have been motivated to perform such modification because, any of the industry buses and memory means (storing Bios) may be implemented in a network of micro-controllers; and further because, it is a matter of user's preference, performance requirements, and cost requirements that dictate the type of devices and subsystems employed in a micro-controller network system. The environmental control system employs and monitors a system of micro-controllers to provide for flexibility in setting and managing a system's configuration. Here, the use the I2C and memory storage means are sub-system's elements which would aid in the reliability, availability, and maintainability of the system.

Response to Amendment

1. The Declaration filed under 37 CFR 131, filed on 1/24/00 under 37 CFR 1.131 has been considered but is ineffective to overcome the Tavallaei et al. reference.
2. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Tavallaei et al. reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem.

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The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The inventors of the claimed subject matter failed to submit factual information showing a completion of the invention in this or a NAFTA or WTO member country. The declaration describes a series of documents by Karl Johnson, which may be broadly construed to be elements of the invention, but no nexus for arriving at the completed invention. Moreover, the declaration is signed by W. Wallach, who is not a named inventor to the provisional application to which priority is claimed, nor inventor of the subject matter that is purported to be the basis for the declaration. Thus, the information is appears to have been to be the work of K. Johnson, and the declaration is declared insufficient.

3. '451 teaches executing commands see col. 3, lines 23 et seq..

4. Since the declaration is insufficient, the 103 rejection is moot.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

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(703)305-9724 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Examiner Norman Wright whose telephone number is
(703) 305-9586. The examiner can normally be reached on Monday to Thursdays from
8:00 AM to 5:30 PM, and on alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Mr. Robert W. Beausoliel, Jr., can be reached on (703) 305-9713. The fax
phone number for this Group is (703) 305-9742.

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the Group receptionist whose telephone number is (703)
305-3900.


NORMAN M. WRIGHT
PRIMARY EXAMINER

Norman Wright
Patent Examiner
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